

IN THE UNITED STATES DISTRICT COURT  
FOR  
THE THIRD CIRCUIT

Rahman R. Fulton  
(Petitioner)

v

2019 OCT -4 P 3:07

Civil Action No. 18-16526 (SRC)

Crim. No. 13-CR-261 (SRC)

United States of America

PETITIONER'S MOTION UNDER RULE 1: SCOPE AND PURPOSE"  
TO COMPEL THE COURT (TO PROCEED IN ITS RULING)  
WITH PETITIONER'S 2255 FILING  
DUE TO COMPELLING AND EXTRAORDINARY CIRCUMSTANCES;  
THAT PETITIONER IS NOW (2) YEARS PAST  
THE CORRECT TIME HE SHOULD HAVE BEEN SENTENCED  
TO, AND PETITIONER (AS A MATTER OF LAW)  
IS ENTITLED TO "SECURE THE JUST, SPEEDY  
AND IN EXPENSIVE DETERMINATION PURSUANT TO FRAP STATUTE.)

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NOW before the Court, Petitioner Rahman Fulton's pro se Motion to Compel the Court to (GRANT) a ruling on his case for relief in his pending Habeas Corpus §2255 petition before the Court currently. This Motion is filed due to it being (90 days) past the Court's final Docket filing (#8) dated 7/2/19; Petitioner's Reply to Respondent's Answer Brief, thus completing the FRAP pursuant to Rule 5, and thus under FRAP "Rule 1"; Petitioner is entitled (as of legal rights) to a Ruling on his case (timely); in support thereof Petitioner states the following:

I. BRIEF HISTORY

Petitioner was found guilty of a crime of Robbery of a FNC Bank in New Jersey, in which he "categorically" denies he committed and argues within his 2255 habeas corpus filings. Post facto of trial; the Court errored (harmfully) when allowing Petitioner to be charged pursuant to 924(c) element, instead of under 924(B)(3) Residual Clause that carried an additional (84) months for a firearm offense for the elements charge.

Petitioner filed a a Rule 4.1 Motion to Expedite and all parties have complied with their Briefing Requirements; and thus there are no other or outstanding matters prohibiting this Court from proceeding to a Ruling.

## II. STATEMENT OF FACTS

Fed.R. of Procd. states that under Rule 1: "Scope and Purpose", clearly states the following;

The Rules govern the Procedure in all civil action and proceedings in the United States District Court, except as stated in Rule 81. They should be constructed, administered and employed by the Court and the parties to "secure the just, speedy and inexpensive determination of every action and proceeding." (History:)(Amended April 29, 2015)(eff. Date Dec. 1, 2015).

## III. SPECIFIC RELIEF SOUGHT

Petitioner's §2255 Motion deals with both his conviction as well as; incorrect charge of an element pursuant to 924(c).

Petitioner files this "Rule 1 Motion"; due to extreme (compelling) and extraordinary reasons, such as the fact that Petitioner is more than (2) years beyond what he should have been sentenced to, once the Court applied the recent Supreme Court decision in (Davis) thus correcting Petitioner's guideline range downward to time served.

Petitioner in addition to filing his Habeas Corpus §2255 Application/Memorandum Brief and Reply Brief; he has also filed a motion for immediate (evidentiary) hearing under FRAP R. 8.1; that has not been decided on by the Court at the time of this Motion being filed.

Petitioner's case (at least concerning the 924(c) matter is not at all complicated, and such Higher and Lower Court decisions has made it even easier/clearer in favor of Petitioner. Petitioner was charged and sentenced under the 924(c) element clause; when in fact Petitioner 924(c) charge should have fallen under the Residual Clause under 924(c)(3)(B); now considered by the Supreme Court to be unconstitutionally vague and thus cannot stand. Period!

Petitioner has brought this extremely important case to light in his final reply brief; and yet is compelled to file this Motion due to substantial developments within his case and sentence. As of this filing, Petitioner has served (82) months of his (141) months sentence; and the removal of the 924(c) enhancement would significantly reduce Petitioner's Sentencing Guidelines downward to "Time Served". What's more; upon the Court removing (84) months of Petitioner's sentence, effectively changing his guidelines range; (Fulton) Petitioner now qualifies for such relief because, at his current ( 82) months of incarceration would mean that Petitioner (has) and is now currently outliving what should have been a correct sentence of only (57) months. And thus needs

to be corrected; and thus has been in jail (24) months past the amount of time the Court should have given Petitioner.

#### IV. CONCLUSION

WHEREFORE, Petitioner Rahman R. Fulton, pro se, hereby respectfully requests this Honorable Court to "GRANT" this Motion and to enter a Ruling in this Instant Matter concerning this specific grounds within his Reply Brief of his 2255 Habeas Corpus filing due to the Recent Supreme Court ruling in U.S. v. Davis/No. 18431; under 18 USC 924(c)(1)(A), (3)(B); finding the Residual Clause to be unconstitutionally vague and cannot stand; and such Order an Immediate Release from Custody, also; the Court to address the other grounds herein Petitioner's complete filing of his 2255 habeas corpus filing, pursuant to FRAP Rule 1. Petitioner, at the time of filing this Motion before the Court when given an appropriate sentence of (57) months (If the Court decides not to overturn Petitioner's conviction); is now been illegally incarcerated 82 plus months and counting; and for such other and further relief deemed proper and necessary in the interest of Justice.

Dated: 10/2/19

Respectfully Submitted,



Rahman R. Fulton, pro se  
Fed. No. 64940-050  
LSCI Allenwood LOW  
PO BOX 1000  
White Deer PA 17887

AFFIDAVIT

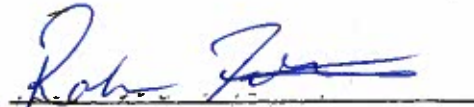
I HEREBY CERTIFY that the foregoing facts are true and correct to the best of my knowlege and belief upon pain of perjury under 28 USC §1746.

A handwritten signature in blue ink, appearing to read 'Rahman Fulton', is written over a horizontal line.

Rahman Fulton

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the following pleading was mailed on this 2nd day of Oct 2019 by first class mail; postage prepaid to Daniel V. Shapiro (AUSA)/ 970 Broad Street, Newark, New Jersey 07102.

A handwritten signature in blue ink, appearing to read 'Rahman Fulton', is written over a horizontal line.

Rahman Fulton

INMATE NAME/NUMBER: Fulton, Rahman / 64940-050  
FEDERAL CORRECTIONAL COMPLEX-ALLENWOOD LOW  
P.O. BOX 1000  
WHITE DEER, PA 17887

CERTIFIED MAIL

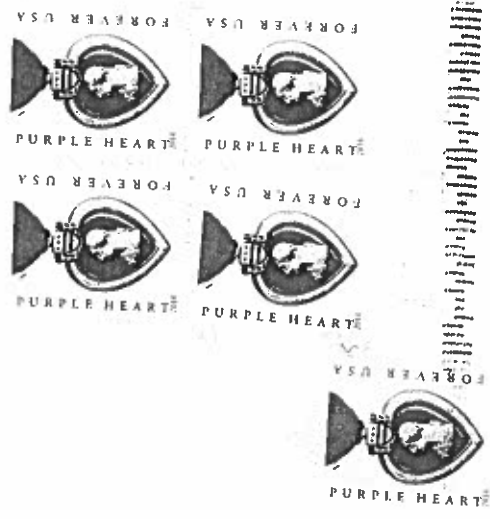


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64940-050  
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